

By: Phillips

H.B. No. 3558

Substitute the following for H.B. No. 3558:

By: Pierson

C.S.H.B. No. 3558

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the authority of a local authority to require a person  
3 who violates a photographic traffic signal enforcement system to  
4 take an intersection safety course.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 707.002, Transportation Code, is amended  
7 to read as follows:

8 Sec. 707.002. AUTHORITY TO PROVIDE FOR CIVIL PENALTY AND  
9 INTERSECTION SAFETY COURSE. (a) The governing body of a local  
10 authority by ordinance may implement a photographic traffic signal  
11 enforcement system and provide that the owner of a motor vehicle is  
12 liable to the local authority for a civil penalty if, while facing  
13 only a steady red signal displayed by an electrically operated  
14 traffic-control signal located in the local authority, the vehicle  
15 is operated in violation of the instructions of that  
16 traffic-control signal, as specified by Section 544.007(d).

17 (b) In addition to a monetary penalty, the local authority  
18 may require that the owner of the motor vehicle successfully  
19 complete an intersection safety course described by Section  
20 707.0025. A local authority that requires completion of an  
21 intersection safety course may charge a fee set by the governing  
22 body of the local authority for the course.

23 SECTION 2. Chapter 707, Transportation Code, is amended by  
24 adding Section 707.0025 to read as follows:

1       Sec. 707.0025. INTERSECTION SAFETY COURSE. (a) An  
2 approved intersection safety course must provide:

3           (1) not less than one hour or more than three hours of  
4 instruction; and

5           (2) information about:

6                   (A) traffic laws of this state;

7                   (B) safe driving techniques, including  
8 recommended vehicle speeds, and the definition of a traffic-control  
9 signal; and

10                   (C) pedestrian safety, including information  
11 about crosswalks.

12       (b) A third-party entity that provides an intersection  
13 safety course required by a local authority must:

14           (1) maintain an Internet website that contains:

15                   (A) course content that meets recognized  
16 national curriculum standards; and

17                   (B) versions of the course in both English and  
18 Spanish;

19           (2) maintain a call center that:

20                   (A) is operated by the entity's employees who  
21 assist with technical and course-related questions; and

22                   (B) operates 24 hours a day, 7 days a week;

23           (3) employ a multilingual staff;

24           (4) maintain a copy of a certificate of formation  
25 evidencing the entity's authorization to do business in this state;

26           (5) comply with the Americans with Disabilities Act  
27 (42 U.S.C. Section 12101 et seq.);

1           (6) maintain sufficient server network security  
2 features, including controlled access and intrusion prevention  
3 measures;

4           (7) maintain sufficient server network volume  
5 capabilities;

6           (8) maintain sufficient security measures to  
7 positively verify student identity;

8           (9) have the capacity to provide for indigent  
9 education program participation; and

10           (10) have the capacity to allow a person without  
11 Internet access to access the course.

12           SECTION 3. Section 707.003(f), Transportation Code, is  
13 amended to read as follows:

14           (f) A local authority may not impose a civil penalty or a  
15 requirement to complete an intersection safety course under this  
16 chapter on the owner of a motor vehicle if the local authority  
17 violates Subsection (b) or (c).

18           SECTION 4. Section 707.009, Transportation Code, is amended  
19 to read as follows:

20           Sec. 707.009. REQUIRED ORDINANCE PROVISIONS. An ordinance  
21 adopted under Section 707.002 must provide that a person against  
22 whom the local authority seeks to impose a civil penalty or a  
23 requirement to complete an intersection safety course is entitled  
24 to a hearing and shall:

25           (1) provide for the period in which the hearing must be  
26 held;

27           (2) provide for the appointment of a hearing officer

1 with authority to administer oaths and issue orders compelling the  
2 attendance of witnesses and the production of documents; and

3 (3) designate the department, agency, or office of the  
4 local authority responsible for the enforcement and administration  
5 of the ordinance or provide that the entity with which the local  
6 authority contracts under Section 707.003(a)(1) is responsible for  
7 the enforcement and administration of the ordinance.

8 SECTION 5. Section 707.010(b), Transportation Code, is  
9 amended to read as follows:

10 (b) A local authority may not impose a civil penalty or a  
11 requirement to complete an intersection safety course under this  
12 chapter on the owner of a motor vehicle if the operator of the  
13 vehicle was arrested or issued a citation and notice to appear by a  
14 peace officer for the same violation of Section 544.007(d) recorded  
15 by the photographic traffic signal enforcement system.

16 SECTION 6. Sections 707.011(a) and (c), Transportation  
17 Code, are amended to read as follows:

18 (a) The imposition of a civil penalty or a requirement to  
19 complete an intersection safety course under this chapter is  
20 initiated by the mailing of a notice of violation to the owner of  
21 the motor vehicle against whom the local authority seeks to impose  
22 the civil penalty or the course requirement.

23 (c) The notice of violation must contain:

24 (1) a description of the violation alleged;

25 (2) the location of the intersection where the  
26 violation occurred;

27 (3) the date and time of the violation;

1 (4) the name and address of the owner of the vehicle  
2 involved in the violation;

3 (5) the registration number displayed on the license  
4 plate of the vehicle involved in the violation;

5 (6) a copy of a recorded image of the violation limited  
6 solely to a depiction of the area of the registration number  
7 displayed on the license plate of the vehicle involved in the  
8 violation;

9 (7) the amount of the civil penalty for which the owner  
10 is liable;

11 (8) the number of days the person has in which to pay  
12 or contest the imposition of the civil penalty and to complete any  
13 required intersection safety course and a statement that:

14 (A) the person incurs a late payment penalty if  
15 the civil penalty is not paid or imposition of the penalty is not  
16 contested within that period; and

17 (B) if applicable, the person incurs an  
18 additional penalty in the amount of a late payment penalty if the  
19 person fails to complete a required intersection safety course by  
20 the date specified in the notice;

21 (9) a statement that the owner of the vehicle in the  
22 notice of violation may elect to pay the civil penalty by mail sent  
23 to a specified address instead of appearing at the time and place of  
24 the administrative adjudication hearing; ~~and~~

25 (10) information that informs the owner of the vehicle  
26 named in the notice of violation:

27 (A) of the owner's right to contest the

1 imposition of the civil penalty against the person and any  
2 requirement that the person complete an intersection safety course  
3 in an administrative adjudication hearing;

4 (B) that imposition of the civil penalty and any  
5 requirement that the person complete an intersection safety course  
6 may be contested by submitting a written request for an  
7 administrative adjudication hearing before the expiration of the  
8 period specified under Subdivision (8); and

9 (C) that failure to pay the civil penalty, to  
10 complete a required intersection safety course, or to contest  
11 liability for the penalty in a timely manner is an admission of  
12 liability and a waiver of the owner's right to appeal the imposition  
13 of the civil penalty; and

14 (11) if applicable, instructions for completing an  
15 approved intersection safety course and information regarding the  
16 fee charged for the course.

17 SECTION 7. Section 707.012, Transportation Code, is amended  
18 to read as follows:

19 Sec. 707.012. ADMISSION OF LIABILITY. A person who fails  
20 to pay the civil penalty, to complete a required intersection  
21 safety course, or to contest liability for the penalty or course  
22 requirement in a timely manner or who requests an administrative  
23 adjudication hearing to contest the imposition of the civil penalty  
24 or course requirement against the person and fails to appear at that  
25 hearing is considered to:

26 (1) admit liability for the full amount of the civil  
27 penalty stated in the notice of violation mailed to the person; and

1           (2) waive the person's right to appeal the imposition  
2 of the civil penalty.

3           SECTION 8. Section 707.013, Transportation Code, is amended  
4 by adding Subsections (b-1) and (d-1) to read as follows:

5           (b-1) If the owner of a motor vehicle is required by a local  
6 authority to complete an intersection safety course under this  
7 chapter, the owner may rebut the presumption under Subsection (a)  
8 by presenting evidence establishing that the vehicle was operated  
9 by another person at the time of the violation. Notwithstanding  
10 Section 707.014, the presentation of evidence under this subsection  
11 must be made by affidavit, through testimony at the administrative  
12 adjudication hearing under Section 707.014, or by a written  
13 declaration under penalty of perjury. The affidavit or written  
14 declaration may be submitted by mail to the local authority.

15           (d-1) If the presumption established by Subsection (a) is  
16 rebutted under Subsection (b-1), the owner of the motor vehicle may  
17 not be required to complete the intersection safety course.

18           SECTION 9. Sections 707.014(a), (g), and (h),  
19 Transportation Code, are amended to read as follows:

20           (a) A person who receives a notice of violation under this  
21 chapter may contest the imposition of the civil penalty or the  
22 requirement to complete an intersection safety course specified in  
23 the notice of violation by filing a written request for an  
24 administrative adjudication hearing. The request for a hearing  
25 must be filed on or before the date specified in the notice of  
26 violation, which may not be earlier than the 30th day after the date  
27 the notice of violation was mailed.

1 (g) At the conclusion of the administrative adjudication  
2 hearing, the hearing officer shall enter a finding of liability for  
3 the civil penalty and any requirement to complete an intersection  
4 safety course or a finding of no liability for the civil penalty or  
5 the requirement to complete an intersection safety course. A  
6 finding under this subsection must be in writing and be signed and  
7 dated by the hearing officer.

8 (h) A finding of liability for a civil penalty must specify  
9 the amount of the civil penalty for which the person is liable. If  
10 the hearing officer enters a finding of no liability, a civil  
11 penalty for the violation or a requirement to complete an  
12 intersection safety course may not be imposed against the person.

13 SECTION 10. Section 707.015, Transportation Code, is  
14 amended to read as follows:

15 Sec. 707.015. UNTIMELY REQUEST FOR ADMINISTRATIVE  
16 ADJUDICATION HEARING. Notwithstanding any other provision of this  
17 chapter, a person who receives a notice of violation under this  
18 chapter and who fails to timely pay the amount of the civil penalty,  
19 to complete a required intersection safety course, or [~~fails~~]  
20 timely request an administrative adjudication hearing is entitled  
21 to an administrative adjudication hearing if:

22 (1) the person submits a written request for the  
23 hearing to the designated hearing officer, accompanied by an  
24 affidavit that attests to the date on which the person received the  
25 notice of violation; and

26 (2) the written request and affidavit are submitted to  
27 the hearing officer within the same number of days after the date

1 the person received the notice of violation as specified under  
2 Section 707.011(c)(8).

3 SECTION 11. Sections 707.016(a), (b), and (d),  
4 Transportation Code, are amended to read as follows:

5 (a) The owner of a motor vehicle determined by a hearing  
6 officer to be liable for a civil penalty or required to complete an  
7 intersection safety course may appeal that determination to a judge  
8 by filing an appeal petition with the clerk of the court. The  
9 petition must be filed with:

10 (1) a justice court of the county in which the local  
11 authority is located; or

12 (2) if the local authority is a municipality, the  
13 municipal court of the municipality.

14 (b) The petition must be:

15 (1) filed before the 31st day after the date on which  
16 the administrative adjudication hearing officer entered the  
17 finding of liability for the civil penalty or the requirement to  
18 complete an intersection safety course; and

19 (2) accompanied by payment of the costs required by  
20 law for the court.

21 (d) An appeal stays enforcement of the requirement to  
22 complete an intersection safety course and collection of the civil  
23 penalty imposed against the owner of the motor vehicle. The owner  
24 shall file a notarized statement of personal financial obligation  
25 to perfect the owner's appeal.

26 SECTION 12. Section 707.017, Transportation Code, is  
27 amended to read as follows:

1           Sec. 707.017. ENFORCEMENT. If the owner of a motor vehicle  
2 is delinquent in the payment of a civil penalty or the completion of  
3 a required intersection safety course imposed under this chapter,  
4 the county assessor-collector or the Texas Department of  
5 Transportation may refuse to register a motor vehicle alleged to  
6 have been involved in the violation.

7           SECTION 13. Section 707.018, Transportation Code, is  
8 amended to read as follows:

9           Sec. 707.018. IMPOSITION OF CIVIL PENALTY OR COURSE  
10 REQUIREMENT NOT A CONVICTION. The imposition of a civil penalty or  
11 a requirement to complete an intersection safety course under this  
12 chapter is not a conviction and may not be considered a conviction  
13 for any purpose.

14           SECTION 14. Section 707.019(a), Transportation Code, is  
15 amended to read as follows:

16           (a) If the owner of the motor vehicle fails to timely pay the  
17 amount of the civil penalty imposed against the owner or to complete  
18 a required intersection safety course:

19                   (1) an arrest warrant may not be issued for the owner;  
20 and

21                   (2) the imposition of the civil penalty or requirement  
22 to complete an intersection safety course may not be recorded on the  
23 owner's driving record.

24           SECTION 15. Section 1001.002, Education Code, is amended by  
25 adding Subsection (d) to read as follows:

26                   (d) An intersection safety course required by a local  
27 authority under Section 707.002, Transportation Code, is exempt

1 from this chapter.

2           SECTION 16. This Act takes effect immediately if it  
3 receives a vote of two-thirds of all the members elected to each  
4 house, as provided by Section 39, Article III, Texas Constitution.  
5 If this Act does not receive the vote necessary for immediate  
6 effect, this Act takes effect September 1, 2009.